



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

MEMORANDUM

DATE: February 15, 2007

TO: Circuit, District, and Municipal Court Judges
cc: Court Administrators, Clerks of the Court, County Clerks

FROM: Sandi Hartnell
Manager, Court Services Team

RE: 2006 Public Act 655, Effective January 9, 2007
Amendment to Sentencing Guidelines, and new authority for Costs to Compel Defendant's Appearance

Costs to Compel Appearance

2006 Public Act 655 amended MCL 769.1k to allow courts to order defendants to pay any additional costs incurred in compelling the defendant's appearance when a defendant has entered a plea of guilty or nolo contendere or if the court determined after a hearing or trial that the defendant is guilty. The costs may be ordered at the time of the sentencing, at the time entry of judgment of guilt is deferred pursuant to statute, or at the time sentencing is delayed pursuant to statute.

In addition, courts now have the authority to apply any overpayment received on behalf of a defendant to any fine, cost, fee, or assessment that the same defendant owes in any other case.

Amendments to the Statutory Sentencing Guidelines

2006 Public Act 655 also made several changes to scoring prior record variables (PRVs) 1 through 4 by further defining those previous offenses that qualify as prior convictions/ adjudications for purposes of scoring PRV 1 (MCL 777.51), PRV 2 (MCL 777.52), PRV 3 (MCL 777.53), and PRV 4 (MCL 777.54).

PRV 1—Prior high-severity felony convictions. In addition to the requirements already found in MCL 777.51(2), a previous felony conviction for a crime punishable by a maximum term of 10 years of imprisonment or more that is not listed in class A, B, C, D, E, F, G, H, or M2 is a prior high-severity felony conviction for purposes of scoring PRV 1. A previous felony conviction under federal law or the law of another state that does not correspond to a crime listed in class A, B, C, D, E, F, G, H, or M2 and that is punishable by a maximum term of 10 years of imprisonment or more also qualifies as a prior high-severity felony conviction for purposes of PRV 1.

PRV 2—Prior low-severity felony convictions. Subject to existing requirements in MCL 777.52(2), a previous felony conviction for a crime punishable by a maximum term of less than 10 years of imprisonment that is not listed in class A, B, C, D, E, F, G, H, or M2 is a prior low-severity felony conviction for purposes of scoring PRV 2. A previous felony conviction under federal law or the law of another state that does not correspond to a crime listed in class A, B, C, D, E, F, G, H, or M2 and that is punishable by a maximum term of less than 10 years of imprisonment is also a prior low-severity felony conviction for purposes of PRV 2.

PRV 3—Prior high-severity juvenile adjudications. In addition to the requirements now found in MCL 777.53(2), a previous juvenile adjudication for conduct that if committed by an adult would be a felony punishable by a maximum term of 10 years of imprisonment or more that is not listed in class A, B, C, D, E, F, G, H, or M2 is a prior high-severity juvenile adjudication for purposes of scoring PRV 3. A previous juvenile adjudication for conduct that if committed by an adult would be a felony under federal law or the law of another state that does not correspond to a crime listed in class A, B, C, D, E, F, G, H, or M2 and that is punishable by a maximum term of 10 years of imprisonment or more also qualifies as a prior high-severity juvenile adjudication for purposes of PRV 3.

PRV 4—Prior low-severity juvenile adjudications. In addition to existing requirements in MCL 777.54(2), a previous juvenile adjudication for conduct that if committed by an adult would be a felony punishable by a maximum term of less than 10 years of imprisonment that is not listed in class A, B, C, D, E, F, G, H, or M2 is a prior low-severity juvenile adjudication for purposes of scoring PRV 4. A previous juvenile adjudication for conduct that if committed by an adult would be a felony under federal law or the law of another state that does not correspond to a crime listed in class A, B, C, D, E, F, G, H, or M2 and that is punishable by a maximum term of less than 10 years of imprisonment is a prior low-severity juvenile adjudication for purposes of PRV 4.

2006 Public Act 655 also amended the method by which SPEC/Variable offenses in MCL 777.18 must be scored.

SPEC/Variable offenses (MCL 777.18)—Offenses based on underlying felonies. Rather than scoring only the offense variables (OVs) appropriate to the offense's crime group as it is listed in MCL 777.18, 2006 PA 655 amended MCL 777.21(4) to require scoring all OVs appropriate to the underlying offense's crime group and any OVs specific to the offense's crime group

designation under MCL 777.18 that were not already scored under the underlying offense's crime group.

Crime class of SPEC/Variable offenses. The new act created a default crime class of G when no offense underlying an offense under MCL 777.18 is a felony offense. As amended, MCL 777.21(4) directs the guidelines scorer to determine the crime class of an offense under MCL 777.18 as follows:

- When only one underlying offense is a felony, the crime class of the MCL 777.18 offense is the same as the underlying felony offense's crime class.
- When there are multiple underlying felony offenses, the crime class of the MCL 777.18 offense is the same as the underlying felony offense having the highest crime class.
- When no underlying offense is a felony, the crime class of the MCL 777.18 offense is G.

A recent MJI webcast, *Legal Update on Sentencing Guidelines*, discusses these legislative changes and illustrates how the changes impact procedures involved in scoring the guidelines. Judges interested in viewing the archived webcast may access the program and its accompanying material at <http://ustools.you-niversity.com/youtools/companies/mji/archivesLayout2.html>.

Please address questions regarding the changes to the Sentencing Guidelines to Phoenix Hummel, HummelP@courts.mi.gov, 517-373-7523, and the change allowing a court to impose a cost to compel defendant's appearance to Beth Barber, BarberB@courts.mi.gov, 517-373-5895.